

Message Text

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ACTION L-03

INFO OCT-01 EA-11 ISO-00 JUSE-00 SCA-01 DRC-01 RSC-01 /018 W

----- 062915

R 040715Z FEB 74

FM AMEMBASSY SINGAPORE

TO SECSTATE WASHDC 0006

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E.O. 11652: NA

TAGS: PFOR, SN

SUBJ: FOREIGN ATTORNEYS IN SINGAPORE

REF: STATE 20261

1. THERE ARE AT PRESENT THREE AMERICAN LAW FIRMS REPRESENTED IN SINGAPORE: COUDERT BROTHERS (NEW YORK), GRAHAM AND JAMES (SAN FRANCISCO, AND KIRKWOOD, KAPLAN RUSSIN AND VECCHI (WASHINGTON). A FOURTH FIRM, WOODHOUSE, LEE AND DAVIS, HAS BEEN DISSOLVED. THESE THREE FIRMS HAVE BEEN OPERATING IN SINGAPORE FOR 18 MONTHS OR LESS.

2. UNDER SINGAPORE LAW, FOREIGN LAWYERS ARE PROHIBITED FROM PRACTICING LAW IN SINGAPORE. EACH OF THE ABOVE FIRMS HAS HAD TO MAKE A WRITTEN UNDERTAKING THAT THEY WILL NOT PRACTICE LAW IN SINGAPORE OR REPRESENT THEMSELVES AS QUALIFIED TO ACT AS ADVOCATES AND SOLICITORS. THE GRAHAM AND JAMES UNDERTAKING READS AS FOLLOWS: " WE HEREBY UNDERTAKE THAT, IF WE ARE GRANTED PERMISSION TO OPEN AN OFFICE TO PRACTICE IN THE REPUBLIC OF SINGAPORE AS CONSULTANTS IN AMERICAN AND JAPANESE LAW, WE AND ATTORNEYS ASSOCIATED WITH US WILL NOT ATTEMPT OR IN ANY WAY REPRESENT OURSELVES AS QUALIFIED TO ACT AS ADVOCATES AND SOLICITORS OF THE REPUBLIC OF SINGAPORE AND THAT WE WILL OBSERVE THE STANDARDS OF CONDUCT WHICH ARE ACCEPTED BY THE LEGAL PROFESSION IN THE REPUBLIC OF SINGAPORE. IN PARTICULAR WE UNDERTAKE THAT WE WILL NOT IN ANY WAY ADVERTISE OURSELVES, EITHER DIRECTLY OR INDIRECTLY OR BY ANNOUNCING

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ANY SPECIALIST QUALIFICATION ON OUR LETTER PAPER, OR

OTHERWISE; AND ALSO THAT WE WILL NOT PAY ANY SHARE OF OUR CHARGES TO PERSONS NOT LEGALLY QUALIFIED."

3. INITIALLY THE GOS AND LAW SOCIETY WELCOMED THE PRESENCE OF US LAW FIRMS TO SINGAPORE IN THE BELIEF-- WHICH WE THINK IS VALID-- SSTHEY WOULD HELP SERVICE THE LEGAL REQUIREMENTS OF LARGE AMERICAN BUSINESS COMMUNITY AND POTENTIAL INVESTOR--
*84. . US LAW FIRMS WOULD PROVIDE LEGAL ADVISORY SERVICES THAT SINGAPORE LAWYERS COULD NOT PROVIDE SUCH AS LEGAL ADVICE ON SOURCING AND PACKAGING OF FINANCING AND COMPARISONS OF TAX/LEGAL SYSTEMS IN VARIOUS COUNTRIES CONSIDERED BY INVESTOR. THIS POSITIVE GOS ATTITUDE HAS RECENTLY CHANGED.

4. ALL FOREIGN NATIONALS WORKING IN SINGAPORE MUST OBTAIN WORK PERMITS WHICH ALLOW THE INDIVIDUAL TO RESIDE IN SINGAPORE FOR CERTAIN SPECIFIC PURPOSES. THESE PERMITS ARE NORMALLY GIVEN FOR A ONE-YEAR PERIOD AND ARE RENEWABLE. THE DECISION IN EACH CASE IS MADE ON THE BASIS OF WHETHER THE INDIVIDUAL WILL PERFORM DUTIES WHICH ARE NEEDED IN SINGAPORE AND WHICH CANNOT BE PERFORMED BY SINGAPORE CITIZENS. IN GENERAL, AMERICAN BUSINESS EXECUTIVES AND TECHNICIANS HAVE HAD LITTLE DIFFICULTY IN MEETING THIS REQUIREMENT.

5. ABOUT FOUR MONTHS AGO, ONE OF THE RESIDENT LAWYERS HAD HIS REQUEST FORRENEWAL REFUSED. THIS INDIVIDUAL, BOB FABRIKANT OF GRAHAM AND JAMES, WAS IN THE PROCESS OF MOVING TO INDONESIA AND WAS TO BE REPLACED BY ANOTHER AMERICAN LAWYER, TOM WOODHOUSE. FABRIKANT INTERPRETED HIS DENIAL AS MEANING THE GOS WANTED ONLY ONE RESIDENT LAWYER FOR EACH FIRM. LATER, HOWEVER, WOODHOUSE'S APPLICATION FOR A WORK PERMIT WAS ALSO DECLINED. NO EXPLANATION WAS GIVEN. AT THAT POINT, THE MATTER WAS BROUGHT TO THE ATTENTION OF THE EMBASSY SINCE REPEATED ATTEMPTS TO GET CLARIFICATION AND EXPLANATIONS FROM THE GOS HAD BEEN UNSUCCESSFUL.

6. THE AMBASSADOR AGREED TO SEEK AN EXPLANATION OF THE WOODHOUSE CASE FROM THE ATTORNEY GENERAL. THE AG SAID THAT WHILE HE HAD ORIGINALLY WELCOMED THE PRESENCE OF AMERICAN LAW LIMITED OFFICIAL USE

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FIRMS, HE THOUGHTNOW THAT HE MAY HAVE ACTED TOO HASTILY. THERE WAS CONSIDERABLE PRESSURE-FROM UNSPECIFIED QUARTERS- TO RETHINK GOS POLICY ON THIS MATTER. THE AG DID NOT MENTION ANY SPECIFIC CRITICISMS OF THE AMERICAN FIRMS' OPERATIO, BUT THE AMBASSADOR GOT THE IMPRESSION THAT THE LOCAL LEGAL FRATERNITY FELT THAT THE AMERICAN LAW FIRMS WERE TAKING BUSINESS AWAY FROM LOCAL LAWYERS. THERE WAS NO SUGGESTION OF ILLEGAL ACTIVITY, ALTHOUGH THE AG SAID HE DID NOT REALLY

KNOW WHAT THE AMERICAN FIRMS WERE DOING AND THERE WAS NO WAY HE COULD POLICE THEIR OPERATIONS. HE SAID THAT A DECISION HAD BEEN MADE TO UNDERTAKE A THOROUGH REVIEW OF THIS MATTER, WHICH WOULD TAKE A LONG TIME TO COMPLETE. IN THE MEANTIME, NO WORK PERMITS FOR LAWYERS WOULD BE APPROVED OR RENEWED.

7. THE AMBASSADOR SAID THAT IT WAS, OF COURSE, UP TO THE SINGAPORE AUTHORITIES TO DECIDE UNDER WHAT CONDITIONS FOREIGN LAW FIRMS WOULD BE ALLOWED TO OPERATE IN SINGAPORE, BUT POINTED OUT THAT THE THREE FIRMS INVOLVED HAD SET UP SHOP IN SINGAPORE WITH THE BLESSING OF THE AG AND THE LAW

SOCIETY AND HAD GONE TO CONSIDERABLE EXPENSE IN DOING SO. HE ASKED, IN FAIRNESS TO THESE COMPANIES, WHETHER IT WOULD NOT BE POSSIBLE TO EXTEND WORK PERMITS COMING UP FOR RENEWAL UNTIL THE GOS HAD COMPLETED ITS STUDY AND MADE A DETERMINATION OF CONDITIONS UNDER WHICH FOREIGN LAW FIRMS COULD OPERATE IN SINGAPORE. THE AG, WHILE SEEMINGLY SYMPATHETIC TO THIS APPEAL, SAID HE WAS UNDER VERY STRONG PRESSURE AND "WAS AFRAID HE COULD NOT AGREE" TO THE AMBASSADOR'S PROPOSAL.

8. THERE WERE OTHER EFFORTS MADE TO GET TEMPORARY EXTENSIONS OF WORK PERMITS, BUT, EXCEPT FOR A TWO-WEEK EXTENSION GRANTED TO WOODHOUSE, THESE EFFORTS FAILED.

9. IT IS CLEAR THAT THE GOS WILL NOT AGREE TO ANY FURTHER EXTENSIONS AND QUITE LIKELY ALL AMERICAN FIRMS WILL BE CLOSED BY MID-SUMMER WHEN THE LAST PERMIT, FOR GAGE MACAFEE OF COUDERT BROTHERS, COMES UP FOR RENEWAL. IT IS OUR GUESS THAT THE REVIEW OF THIS MATTER BY SINGAPORE AUTHORITIES WILL LIMITED OFFICIAL USE

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BE VERY PROTRACTED. UNDER THE CIRCUMSTANCES, WE BELIEVE WE HAVE DONE ALL WE APPROPRIATELY CAN TO INTERVENE IN THIS SITUATION.

10. THERE IS NO EVIDENCE OF DISCRIMINATORY TREATMENT OF AMERICAN LAWYERS VIS-A-VIS OTHER FOREIGN NATIONALS. THERE ARE NO OTHER FOREIGN-NATIONAL LAWYER-FIRMS OPERATING OFFICES IN SINGAPORE. SOME BRITISH ATTORNEYS, USUALLY AS QUEENS COUNSEL, ARE TEMPORARILY ADMITTED FOR SPECIFIC AND LIMITED ACTIVITY. THIS IS DONE BY SPECIAL PERMISSION OF THE COURT (S) AND IS SIMILAR, WE BELIEVE, TO ARRANGEMENTS SOMETIMES MADE BETWEEN VARIOUS STATES IN THE US.

11. MR. CHRISTOPHER KING HAS RECEIVED A LETTER FROM THE

IMMIGRATION DEPARTMENT REQUESTING HIS PLANS FOR
DEPARTURE FROM SINGAPORE. THE EXTENSION OF HIS RESIDENCE
PERMIT EXPIRED JANUARY 31. HE PLANS TO DEPART SINGAPORE
FEB. 12. KIRKWOOD FIRMS' OFFICE WILL THEN BE CLOSED.
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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: LAW, ATTORNEYS, WORK PERMITS, FOREIGN POLICY POSITION
Control Number: n/a
Copy: SINGLE
Draft Date: 04 FEB 1974
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Authority: MorefiRH
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
Disposition Date: 28 MAY 2004
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1974SINGAP00462
Document Source: CORE
Document Unique ID: 00
Drafter: n/a
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: n/a
From: SINGAPORE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1974/newtext/t19740258/aaaacbwi.tel
Line Count: 174
Locator: TEXT ON-LINE
Office: ACTION L
Original Classification: LIMITED OFFICIAL USE
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 4
Previous Channel Indicators: n/a
Previous Classification: LIMITED OFFICIAL USE
Previous Handling Restrictions: n/a
Reference: STATE 20261
Review Action: RELEASED, APPROVED
Review Authority: MorefiRH
Review Comment: n/a
Review Content Flags:
Review Date: 09 AUG 2002
Review Event:
Review Exemptions: n/a
Review History: RELEASED <09-Aug-2002 by rowelle0>; APPROVED <14-Aug-2002 by MorefiRH>
Review Markings:

Declassified/Released
US Department of State
EO Systematic Review
30 JUN 2005

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: FOREIGN ATTORNEYS IN SINGAPORE
TAGS: PFOR, SN, US
To: STATE
Type: TE
Markings: Declassified/Released US Department of State EO Systematic Review 30 JUN 2005